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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA

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11 LAURA THOMPSON, etc.,  
12 Plaintiff,

13 vs.

14 HOMECOMINGS FINANCIAL, LLC,  
15 Defendants.

Case No.: C 07 4046 PJH

**[PROPOSED] ORDER GRANTING  
DEFENDANT'S MOTION TO DISMISS  
PURSUANT TO F.R.C.P. 12(b)(6) AND  
TO STRIKE PURSUANT TO F.R.C.P.  
12(F) PORTIONS OF THE FIRST  
AMENDED COMPLAINT**

16 Hearing Date: January 9, 2008  
17 Time: 9:00 a.m.  
18 Courtroom: 3  
19 Judge: Hon. Phyllis J. Hamilton  
20 Complaint Date: August 7, 2007  
21 Trial Date: Not Set

22 This Motion of Defendant HOMECOMINGS FINANCIAL, LLC, (hereafter,  
23 "Defendant"), seeking dismissal pursuant to FRCP 12(b)(6) and to strike portions of the first  
24 amended complaint pursuant to FRCP 12(f), having been duly noticed and served on all interested  
25 parties, came on regularly for hearing before this Court, the Honorable Phyllis J. Hamilton  
26 presiding, at 9:00 a.m. on January 9, 2008.

27 All arguments, papers and evidence considered and good cause appearing, Defendant's  
28 Motion to Dismiss and to Strike portions of the first amended complaint is GRANTED as  
follows:

1. Pursuant to Fed. R. Civ. P. 12(b)(6) to dismiss the second cause of action of  
2 plaintiffs' first amended complaint on the grounds that

3 a. The California Consumers Legal Remedies Act (Civ. Code, §1750 et seq.)  
4 does not apply to transactions, such as those alleged in the complaint, involving only the  
5 extension of credit; and

6 b. Plaintiff has not alleged facts showing a violation of the Consumers Legal  
7 Remedies Act's specific prohibitions.

8 2. Pursuant to Fed. R. Civ. P. 12(f) to strike paragraphs 1 and 4 of the first amended  
9 complaint's prayer. Those paragraphs seek compensatory, statutory, and punitive damages, relief  
10 that is not available under California Business and Professions Code § 17200 et seq. or §17500 et  
11 seq., and which plaintiff cannot recover under the Consumers Legal Remedies Act for the reasons  
12 mentioned in the accompanying motion to dismiss.

13 IT IS SO ORDERED.

14 DATED: \_\_\_\_\_

15 Phyllis J. Hamilton  
16 United States District Court Judge  
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